



## Decision Notice

### Proposed Land Acquisition: Milk River Wildlife Management Area

Montana Fish, Wildlife and Parks  
Region 6  
54078 Hwy 2 West  
Glasgow, MT 59804  
406-228-3700

November 15, 2012

### **Proposed Action**

Montana Fish, Wildlife and Parks (FWP) is proposing to purchase 2,992 acres of the Milk River Ranch from Aageson Grain and Cattle. The property is located along the Milk River near the U.S.-Canadian border approximately 43 miles northwest of the town of Havre. The property would be used to establish a Wildlife Management Area.

The acquisition is proposed to meet the following goals:

- Permanently protect and enhance the fish and wildlife resources.
- Protect the native riparian and grassland habitats present on the property.
- Increase public access and recreational opportunity.
- Maintain the integrity and connectivity of the Milk River corridor.

This property contains approximately 95% intact native habitats, a large portion of which are riparian and grassland habitats of high conservation priority for FWP according to the Montana Comprehensive Fish and Wildlife Conservation Strategy. The property provides important winter range for antelope and mule deer. There are also populations of upland birds, elk, white-tailed deer, waterfowl, and other game species found on the ranch that would provide good hunting and wildlife viewing opportunities. The native habitat found on the ranch also provides habitat for a variety of grassland birds, reptiles, amphibians, fish, and other nongame species. The property contain approximately 10 miles of riverfront habitat along the Milk River.

### **FWP project funding**

FWP plans to apply for a federal grant to use Pittman-Robertson (PR) funding on this acquisition. If the grant is awarded, 75% of the funding for this project would come from PR dollars and the remaining 25% of the funding for this project would come from the Habitat Montana program, funded by earmarked hunting license dollars as directed in HB 526. If PR funding is not available, the cost of the

acquisition would be funded solely by Habitat Montana. The appraised value of this property is \$4,708,500.

### **Montana Environmental Policy Act (MEPA) Process**

FWP prepared a draft environmental assessment (EA) pursuant to MEPA. FWP is required to assess the impact of the proposed action to the human and physical environment as directed by MEPA. FWP also prepared a management plan and socio-economic assessment pursuant to the 1987 act of the Montana Legislature known as House Bill 526. FWP mailed 14 copies of the EA to surrounding landowners and county commissioners and agencies and 12 notifications of the EAs availability to other individuals, agencies, landowners, and other interested parties. The EA was open for a 24 day public comment period from October 17<sup>th</sup>-November 9 at 5:00 pm. The EA was also available for public review on the FWP website ([fwp.mt.gov/news/publicNotices](http://fwp.mt.gov/news/publicNotices)).

Legal notices of the Milk River WMA EA were published twice in the Great Falls Tribune (10/26 & 10/30) and in the Havre Daily News (10/25 & 10/30). The proposed acquisition and the related public hearing were also publicized by stories in the Billings Gazette and on local radio stations.

A public hearing to explain the proposal, answer questions, and take public comments was held on October 30<sup>th</sup>, 2012 in Havre at the Hill County Electric Community Room. There were approximately 65 members of the public in attendance at the meeting.

### **Summary of Public Comment**

FWP received two verbal comments at the public hearing. FWP also received 59 additional electronic and written comments for a total of 61 comments. These comments are summarized in Appendix A. Thirty-three of the comments were in support of the acquisition; twenty-seven comments were opposed to the acquisition; one comment did not support or oppose the acquisition, but provided comments on management of the property. The majority of the comments were from individuals, but there were five comments from nongovernmental organizations.

A total of 33 individuals or organizations (54% of the comments) were in support of the acquisition. Comments provided in support of the acquisition can be classified as follows (the number in parenthesis indicates the number of comments received for that category):

- 1.Protects valuable wildlife resources and hunting opportunities. (14)
- 2.Protects important vegetation resources or habitats. (11)
- 3.Helps protect important cultural, paleontological, or historical resources. (10)
- 4.Provides additional public access and recreational opportunities. (21)
- 5.Protects important scenic resources. (2)
- 6.FWP should focus greater attention on the archaeological and paleontological resources. (2)

A total of 27 individuals or organizations provided comments in opposition to the acquisition and one commenter did not support or oppose the project, but provided input regarding wildlife management on the property. These comments can be classified as follows:

1. The appraisal/purchase price for this property was too high (18).
2. Concerns that the purchase price of the property would impact the property taxes assessed on neighboring properties (3).
3. Limited road access to the property and problems related to this limited access. (6)
4. Concerns over potential for the relocation of bison on the property. (5)
5. Opposition to FWP and government agencies purchasing private land. (14)
6. FWP should focus on wildlife management not land acquisition (5)
7. The EA overestimates the fish opportunity provided (4)
8. The hunting opportunity provided by the property would be less than presented (5)
9. Concerns requesting greater involvement of and better dissemination of information to the public, neighboring landowners, and county officials. (5)
10. Concerns regarding the effects of political influence on the proposal. (6)
11. Potential impacts to the tax base or local economy. (3)
12. Concerns regarding the ability of FWP to maintain this property and other properties it already owns. (9)
13. Management strategies for game species on the property. (1)
14. Concerns about the impacts of increased visitor use on neighboring landowners and properties. (5)
15. Concerns that there were insufficient water rights to influence Milk River water levels or for irrigation and grazing (2)
16. Concerns regarding impacts of potential archaeological/paleontological development. (2)
17. Issues related to fencing and potential livestock grazing on the WMA. (4)
18. Need for an Environmental Impact Statement rather than an EA. (2)
19. The EA overestimates the probability of development occurring on the property if sold to another buyer. (1)
20. The EA does not accurately reflect the impact of agricultural or energy development of the property(2)
21. FWP should have considered expanding this acquisition to include surrounding landowners interested in selling their property. (2)
22. Question regarding the need to generate income on a WMA(1)
23. Concerns regarding the DNRC purchase/management of adjacent property. (3)
24. FWP should acquire an easement rather than acquiring this property. (1)
25. Issues with habitat improvement strategies on the WMA. (1)

## **FWP Responses to Public Comments**

There were a variety of issues raised during the EA process, the public hearing, and through comments submitted. The following is a summary of the issues raised and the responses to these comments.

**Issue 1.** The appraisal value and purchase price of the property is overpriced when compared to land values in the surrounding area. (18 comments)

*FWP Response: The appraisal of the property was conducted by independent certified real estate appraiser not affiliated with the landowner or FWP. The appraisal was based on comparable sales and comparable income and lease data. The property was valued using a cost approach valuation of 24*

*recent (since 2008) comparable sales in the State of Montana that were sold for recreational or agricultural use. The limited number of comparable sales in northern Montana did require the appraiser to expand the pool of comparable properties outside the immediate area which may have influenced the appraised value.*

**Issue 2.** The high appraisal/purchase price of the property will increase the property tax assessment on surrounding properties. (3 comments)

*FWP Response: According to the Hill County Assessor, this purchase would not impact the property tax assessment on surrounding agricultural and grazing land. Tax assessments in Hill County are based on the estimated productivity of the individual property and this sale would not impact neighboring properties' tax assessments.*

**Issue 3.** The access to the property is limited and therefore will not provide the projected recreational/hunting opportunities. (6 comments)

*FWP Response: FWP agrees as stated in the EA that access to the western portion of the property is limited by the presence of a private inholding and limited road access. Recreational access to this portion of the property would be restricted to walk-in or horseback access. These limitations will likely decrease the overall recreational use of these portions of the property, but would provide additional remote walk-in hunting opportunities desired by some sportsmen. FWP is exploring other opportunities for improving access to this portion of the property.*

**Issue 4.** Landowners in the area are concerned over the potential for the relocation of bison onto the WMA and the impact to surrounding landowners and livestock. (5 comments)

*FWP Response: There are no plans for transplanting bison onto the Milk River Wildlife Management Area. The Draft Management Plan and EA do not address the impacts or management of bison since there are no plans for bison on this property. In addition, SB 212 requires a management plan for bison be developed and public hearing be held before bison can be transplanted on any public or private land in Montana.*

**Issue 5.** Several comments were opposed to any additional transfer of private land to public ownership. There were concerns that taking land out of private ownership removes the land from production. It also reduces the opportunities for new farmers/ranchers and surrounding landowners to purchase the land. (14 comments)

*FWP Response: The purchase of private land by FWP or other public agencies does eliminate the possibility of neighboring landowners or other interested parties being able to acquire this property for farming or ranching use. The impact of the loss of the potential to acquire this property would be greatest on nearby landowners seeking to expand their operation. FWP does pursue conservation easements whenever possible. Conservation easements keep property in private ownership while also ensuring conservation of the wildlife, vegetation, and recreational value of a property. However, the current landowner was not interested in the option of a conservation easement. The overall impact of FWP purchases of land for Wildlife Management Areas on statewide ranch and farm land prices and*

*availability is likely minor. FWP WMAs comprise less than four-tenths of one percent of the total land acreage in Montana.*

**Issue 6.** Several comments stated that FWP should focus on wildlife management and should not be involved in purchasing or managing property. (5 comments)

*FWP Response: Part of Montana FWP's mission is the management of wildlife species present in Montana. FWP is also tasked with the stewardship of Montana's fish, wildlife, state parks, and recreational resources. FWP seeks to conserve Montana's wildlife and fish resources and provide public recreational opportunity. The acquisition of this property helps FWP meet these goals. FWP is granted the authority under MCA 87-1-209 to purchase land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection, for state parks, and for outdoor recreation.*

**Issue 7.** Several comments that stated that the fishing opportunity provided by the Milk River along the property was poor and that many species would not be present in the Milk River. (4 comments)

*FWP response: The Milk River is a shallow river and water levels can vary greatly depending on the time of year. During many years, the late summer/fall water levels in the Milk River are low enough to severely limit fishing opportunity. The fisheries species listed as present in the Milk River were based on FWP's MFISH database of fish distribution and fisheries research conducted on the Milk River. Due to the location of the property and the proximity of the high quality fishery of Fresno Reservoir, most fishing occurring on the property would likely be associated with other recreational opportunities.*

**Issue 8.** There were several comments stating that the hunting opportunity for the property would be less than predicted. One comment said elk presence is transient and pressure would keep these elk in Canada. (5 comments)

*FWP response: The elk on the property are only present intermittently. The elk herd regularly moves between habitat in Canada and the U.S. FWP agrees that hunting opportunity for elk would be limited and hunting pressure would likely result in the elk at least temporarily returning to Canada. There currently is a general elk season open for this hunting district and several elk are usually taken in the vicinity of this property each year. However, the elk hunting opportunity provided by this property would be sporadic. The other game species on the ranch could also be impacted by hunting pressure, however these species are likely to be present on the property during a large portion of the year including during portions of the hunting season.*

**Issue 9.** There were several concerns raised that the public, county, and surrounding landowners should have been consulted earlier in this EA process and that many questions and concerns have not been addressed by the EA and public meeting. (5 comments)

*FWP response: FWP understands this concern and the desire of local landowners and government officials to be involved early on in the development of this project. When this offer was suggested to FWP, there were time constraints that limited FWP's ability to more deeply involve surrounding landowners and county officials in the development of the project. The draft EA, public hearing, and public comment period were designed to provide additional opportunities for interested parties to provide FWP with the issues and concerns raised by this proposal. This decision notice and changes in*

*the draft EA are in response to many of the questions and concerns raised by this input. If this acquisition proceeds, FWP plans to have additional consultations with county officials and neighboring landowners regarding improvement to the management of this property and methods of minimizing impacts to neighboring landowners or county services.*

**Issue 10.** Several comments raised concerns that undue political influence was involved in the selection and progression of this project. (6 comments)

*FWP Response: This proposal was evaluated by FWP staff and endorsed by the FWP Commission to proceed with further evaluation. A Draft Environmental Assessment for the acquisition has been prepared, a public hearing has been held, and public comments have been collected. The proposal will require further approval by the State Land Board and the FWP Commission as is required for all FWP acquisitions.*

**Issue 11.** There were concerns raised over the impact of placing this property in public land ownership would have on the county tax base or the local economy. (3 comments)

*FWP Response: The acquisition of this property would not directly impact the tax revenues collected by Hill County for this property. FWP is required under MCA 87-1-603 to pay to the county “a sum equal to the amount of taxes which would be payable on county assessment of the property were it taxable to a private citizen. The existing taxes on the property are \$5,510/year. The impacts to the local economy are more difficult to quantify. If livestock grazing on the property is continued these benefits to the local economy would be maintained, but if livestock grazing is discontinued there could be minor impacts to the local economy. The potential for hunting and other recreational uses on the property could increase revenue to the local economy.*

**Issue 12.** There were comments raising concerns about FWP maintenance of the property. Several comments felt that FWP could not maintain the property it currently owned and would not have adequate funding to maintain this property. (9 comments)

*FWP Response: SB 164 requires that when acquiring a new property FWP “must include an additional 20% above the purchase price to be used for maintenance of land or water acquired by the department”. Maintenance activities include, but are not limited to weed control, fence installation and repair, signing, and garbage and litter removal. FWP has two full-time employees in Havre that would be the primary individuals responsible for signing existing boundaries and maintaining the WMA. Additional regional staff and temporary employees could also be available for signing of WMA and public land boundaries. FWP is required to develop and implement a noxious weed management plan in consultation with the county. There are no plans for significant developments such as campground or latrines at this time that would require additional maintenance.*

**Issue 13.** Once commenter had concerns regarding the management of the game populations on the property. The commenter felt that excessive hunting pressure and overharvest would damage the properties’ wildlife resources. (1 comment)

*FWP Response: The creation of a Wildlife Management Area (WMA) would increase public use and hunting pressure on the property. The relatively large tract of public land that would be created by this*

*purchase and the concurrent DNRC land acquisition would create an approximately 14,000 acre block over which to disperse hunting pressure. The majority of this property would be managed for walk-in hunting access. This type of access will likely limit hunting pressure in more remote portions of the property and help limit the potential for overharvest. FWP Region 6 also has an active Block Management Program with around 1.3 million acres of private land in addition to other publicly accessible lands that should help disperse hunting pressure over a larger area and reduce hunting pressure and harvest on this area. FWP also has 10 existing WMA's in this region that are managed under similar guidelines and these still possess healthy wildlife populations.*

**Issue 14.** Concern regarding the impact of increased public use of the property on surrounding landowners. Increased public use of the area would increase potential for trespassing, wildlife violations and other crimes, and impacts to county roads. (5 comments)

*FWP Response: FWP agrees that the creation of a Wildlife Management Area (WMA) will increase public use of the property. Increased public use of the property will increase the risk of impacts on surrounding landowners (trespassing, poaching, littering, vandalism, road damage, etc.). The Management Plan for the property includes measures to mitigate these impacts. The boundaries of the WMA and surrounding properties will be signed to limit potential trespassing or poaching on neighboring properties. Hunting on the property will be primarily walk-in hunting, which should also help decrease trespassing problems. There are two wardens based out of Havre that are responsible for responding to wildlife violations in Hill County. There are also additional personnel based in the Havre area office who would be able to assist in monitoring the WMA and surrounding properties for violations. The potential creation of parking areas would also help limit some of these impacts. If increased littering becomes an issue FWP can look at the placement of refuse receptacles on the property. FWP will attempt to mitigate any additional unforeseen impacts due to recreational use.*

**Issue 15.** There were two comments that the water resources/rights on the property were limited and that these would affect FWP's ability to manage water levels in the Milk River and may not be adequate for irrigation and possibly grazing needs. (2 comments)

*FWP Response: The property proposed for purchase by FWP does include water rights for watering livestock and the property currently supports approximately 150-200 head of yearling cattle. The primary sources of water for livestock are the Milk and Lost Rivers. Implementation of a rest-rotation grazing system may require additional development of springs or other water sources to provide additional summer/fall water for livestock. FWP agrees that these water rights would not allow FWP to influence water levels in the Milk River. FWP is not acquiring any irrigated cropland or hay meadows and would not have the ability or water rights to irrigate on the property. The property proposed for purchase by FWP includes primarily native riparian and upland habitats that would not need water irrigation rights.*

**Issue 16.** Concerns over the landowners maintaining the archaeological and paleontological rights to the property. The potential development of these rights could have impact on the wildlife and vegetation resources of the property and its value. (2 comments)

*FWP Response: There are potential impacts from development of the archeological and paleontological rights. However, the following stipulations have been placed on the development to*

*help mitigate any impact from this development: the reserved rights do not include rights to ammolite or any similar substance that is derived from fossilized organic matter; they shall not disturb any surface area(s) greater than five acres in size at any one time and no pit, shaft, cavity or disturbed area shall ever be operated for more than three years; they will comply with the Montana County Noxious Weed Management Act and be responsible for control of noxious weed infestations, archeological and paleontological activities will not be conducted during fall and winter hunting seasons; they will minimize ground and vegetation disturbance and travel; They will be required to submit a reclamation bond to ensure reclamation of disturbed acres; They must submit an operating plan for FWP approval prior to any surface disturbing activity.*

**Issue 17.** Concerns that the property would not be able to support a rest-rotation grazing system without significant improvements. There would be additional costs necessary for fencing and water development in order for the proposed grazing system to work. (4 comments)

*FWP Response: FWP will explore the option of utilizing grazing on the Wildlife Management Area. If grazing is deemed to be compatible with the FWP's primary wildlife and habitat goals, FWP would work to develop a rest-rotation grazing system. As was mentioned in the Management Plan, a rest-rotation grazing system would require additional water development and fencing and funding to complete these improvements. Currently, many of the pastures on the property are not fenced separately from Department of Natural Resources and Conservation (DNRC) property. If grazing is not utilized on the WMA there would still be costs involved in fencing FWP owned lands off from existing DNRC pastures.*

**Issue 18.** An environmental assessment is not an adequate level of review of this proposal. An Environmental Impact Statement (EIS) should be completed. (2 comments)

*FWP Response: Through the EA process the individual and cumulative impacts of the proposed actions were evaluated on the physical and human environment. Potential adverse impacts of this action were identified. Most of these impacts can be mitigated and no significant impacts were identified. Pursuant to ARM 12.2.431, an EIS was not required and an EA was determined to be the appropriate level of review.*

**Issue 19.** The EA does not accurately portray the no action alternative. The potential for agricultural conversion, energy development, or subdivision of the property are overstated and unlikely to happen. (1 comment)

*FWP Response: If the property proposed for acquisition were to sell to another private landowner it would be difficult to predict the future management of the property. A new landowner may continue current management of the property and maintain the intact native habitat present. The NRCS soil survey database indicated that 3.9 % of the property is prime farmland and 48.6% is farmland of statewide importance. Recent increases in grain prices have also resulted in increasing conversion of rangeland to farmland. This suggests that there is potential for additional conversion of this property to crop production if purchased by another buyer. FWP agrees that the oil and gas potential for this area is considered low and impacts from oil and gas development would not be expected in the short term. However, adjacent BLM and State mineral rights have been leased indicating some potential for oil and*



*gas exploration or development. FWP also agrees that high density subdivision of the property into numerous small lots is unlikely due to the location of the property and distance to public services. However, the type of subdivision referenced in the EA was the potential for division of the property into larger ranchettes. The wildlife and scenic resources of this property increase the recreational value of the land and the potential for subdivision and sale of this property. These are all potential outcomes of another buyer purchasing this property.*

**Issue 20.** The EA does not accurately analyze the impacts of the no action alternative. Agricultural conversion and energy development are inaccurately portrayed as having negative impacts. (2 comments)

*FWP Response: Agricultural and energy development of the property would likely have positive impacts on the local economy and tax base. Crop production can have benefits for many wildlife species. The production of agricultural crops can provide a food source for a variety of wildlife species including many upland birds, deer, and elk. However, many wildlife species, particularly those that are in greatest need of conservation, are heavily dependent on native vegetation communities. The loss of native riparian and grassland habitats can have significant negative impacts on Threatened and Endangered Species and Species of Concern and an overall loss of species diversity. There are potential impacts of agricultural development of this property to the vegetation, wildlife, and recreational resources on the property. These impacts could be minor depending on the level of development.*

**Issue 21.** FWP should have considered expanding this acquisition to include surrounding landowners interested in selling their property. (2 comments)

*FWP Response: Montana FWP would be interested in cooperating with neighboring landowners interested in conserving the wildlife and habitat resources on their property and discussing potential conservation options including conservation easements or land acquisitions.*

**Issue 22.** One commenter questioned if FWP and DNRC have to show a return of investment on the purchase. (1 comment)

*FWP Response: FWP does not have to show a return on investment on properties it acquires. These properties are purchased for the conservation of important wildlife and habitat resources and public recreation not for their income generating potential.*

**Issue 23.** There were several comments and questions regarding the DNRC's land management and acquisition policies. (3 comments)

*FWP Response: These comments were forwarded on to the DNRC. This EA is focused on the impacts of the FWP's land acquisition and management. These two acquisitions would be managed under different agency rules and mandates.*

**Issue 24.** There was one comment suggesting FWP consider an easement on the property rather than an acquisition. (1 comment)

*FWP Response: FWP would consider purchasing an easement on the property as this alternative would help conserve the wildlife and recreational value of the property and cost less than an acquisition. The seller of the property is not interested in only selling a conservation easement at this time, so this alternative was removed from further consideration.*

**Issue 25.** There was one comment that stated FWP would not be able to appreciably improve the habitat on the property that had changed little in the last 100 years and that planting of shelterbelts would not coincide with FWP's goals of protecting native habitat. (1 comment)

*FWP Response: FWP agrees that the habitat on the property is largely intact and unbroken native vegetation communities. This is one of the primary reasons FWP is interested in this property. There are some opportunities for minor changes (reseeding non-native fields, grazing modifications, wildlife friendly fencing). FWP also agrees that disturbing native prairie for planting of shelterbelts would not be an appropriate habitat manipulation. The only areas where shelterbelts would be considered would be in previously disturbed non-native habitats. FWP may plant individual or smaller clusters of native shrub or trees species along the Milk River or in adjacent coulees. The draft EA has been changed to clarify this point.*

**Issue 26.** Two comments received encouraged FWP to consider greater focus on managing the property for the educational, scientific, and historical value of the many archeological and paleontological values of the property and to consider managing the property as a State Park. (2 comment)

*FWP Response: FWP is aware of the high archeological and paleontological values found on the property. However, the rights to development of these resources will be maintained by the seller. The current management plan is written for this property to become a Wildlife Management Area for the conservation of important wildlife and habitat resources. There currently are no plans to manage this property as a State Park.*

### **Corrections and Additions to the Draft Environmental Assessment**

Based on comments received during the public scoping period and additional information collected during the EA process several changes were made to the Draft EA.

The funding source of the project was updated to reflect the option of funding the entire purchase using Habitat Montana funding if FWP's application for Pittman-Robertson funds is not granted.

The no action alternative description was modified to reflect comments received to better clarify the uncertainty of development if the property was sold to another buyer.

The EA was changed to better describe the variable nature of water levels in the Milk River and the potential impacts this could have on fishing and other water related recreational opportunities.

The draft EA stated that FWP would receive the mineral rights of the property. FWP will receive all mineral rights owned by the landowner, however some of the mineral rights on the property are owned by the Bureau of Land Management.

The draft EA also stated that landowner would retain the gravel rights for an existing gravel pit on the property. The fact has changed and FWP will now receive all gravel rights for the property.

The potential habitat improvements on the property were modified to clarify that potential shelterbelts would only be placed in areas of non-native vegetation. Individual shrubs or small clusters of shrubs may be planted in riparian areas or other native habitats.

## **Decision**

Based on the Environmental Assessment we have determined that the proposed action will not have significant effects on the human and physical environment associated with this action. Therefore an environmental assessment (EA) is the appropriate level of analysis for this project.

The acquisition of 2,992 acres of primarily native riparian and upland habitats will help conserve and enhance rare native riparian and grassland habitats that provide habitat for a variety of game and non-game species and also help maintain a corridor for connectivity between wildlife populations in Canada and in the United States.

After review of this proposal and the public comments submitted, it is my decision to accept the Decision Notice and updated Environmental Assessment as final and to recommend the acquisition of this property for the creation of the Milk River Wildlife Management Area.

The Final EA will be available for public viewing on the Montana Fish, Wildlife, and Parks website at: <http://fwp.mt.gov/news/publicNotices>. Copies of the EA may also be obtained by contacting the Fish, Wildlife, and Parks Havre Area Office, 2165 Hwy 2 East, Havre, MT 59501 (406-265-6177).



Pat Gunderson  
Region 6 Supervisor